

I certify that the attached is a true and  
correct copy of H.B. 2360, which  
was filed of record on MAR 19 1991  
and referred to the committee on.

ISSI MAR 28 11 09 Natural Resources  
HOUSE OF REPRESENTATIVES Benny Messing  
Chief Clerk of the House

FILED MAR 19 1991

PERMISSION GRANTED TO INTRODUCE

By LEWIS, R

H.B. 2360

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Texas Water Commission to issue  
written citations for violations of the Water Code and the Solid  
Waste Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.117(a), Water Code, is amended to read  
as follows:

(a) The executive director shall monitor compliance with all  
permits and licenses issued by the commission.

(1) If the executive director determines [~~7--and-if-the~~  
~~evidence--available--to--the--executive--director--through--this~~  
~~monitoring-process-indicates~~] that a permittee or licensee is in  
substantial noncompliance with that [~~his~~] permit or license for a  
period of four months, or for a shorter period of time if the  
executive director considers an emergency to exist, the executive  
director shall report this fact to the commission together with the  
information relating to the noncompliance.

(2) If the executive director or a designated field  
agent of the commission determines that a permittee or licensee  
knowingly or negligently made any false statement, representation,  
or certification in any notice, record, report or other document  
filed or required to be maintained under chapter 5, chapter 26 or  
chapter 27 of this code, or under any rule, regulation, permit or  
other order of the commission promulgated thereunder, the executive

1 director or designated field agent may issue a written citation in  
2 accordance with subsection (g) of this section.

3 SECTION 2. Section 5.117, Water Code, is amended by adding  
4 subsections (g), (h), (i), and (j) as follows:

5 (g) Written citations shall be prepared in triplicate and  
6 shall contain the name and address of the permittee or licensee,  
7 the permit or license number, a complete description of the  
8 violation, and the amount of the penalty to be assessed. One copy  
9 of the citation shall be filed with the commission, one copy filed  
10 in the field office records, and one copy provided to the permittee  
11 or licensee.

12 (h) The commission shall adopt a schedule describing the type  
13 of violations for which a citation may be issued and a penalty of  
14 not less than \$50 nor more than \$1000 for each violation.

15 (i) The commission shall grant a hearing to a permittee or  
16 licensee who contests, in writing, a citation issued under this  
17 section. If a hearing is requested the commission shall treat the  
18 citation as a report from the executive director and shall proceed  
19 in accordance with subsection (b) of this section.

20 (j) Payment of a penalty for a citation issued under this  
21 section shall be full and complete satisfaction of the violation  
22 for which the citation was issued and shall preclude any other  
23 civil or criminal penalty for the same violation.

24 SECTION 2. The Health and Safety Code is amended by adding  
25 Section 361.253 as follows:

26 Sec. 361.253. WRITTEN CITATIONS; PENALTIES

1       (a) If the executive director or a designated field agent of  
2 the commission determines that a permittee or licensee knowingly or  
3 negligently made any false statement, representation, or  
4 certification in any notice, record, report or other document filed  
5 or required to be maintained under sections 361.035, 361.036 or  
6 361.037 of this code, or under any rule, regulation, permit or  
7 other order of the commission promulgated thereunder, the executive  
8 director or designated field agent may issue a written citation in  
9 accordance with this section.

10       (b) Written citations shall be prepared in triplicate and  
11 shall contain the name and address of the permittee or licensee,  
12 the permit or license number, a complete description of the  
13 violation, and the amount of the penalty to be assessed. One copy  
14 of the citation shall be filed with the commission, one copy filed  
15 in the field office records, and one copy provided to the permittee  
16 or licensee.

17       (c) The commission shall adopt a schedule describing the type  
18 of violations for which a citation may be issued and a penalty of  
19 not less than \$50 nor more than \$1000 for each violation.

20       (d) The commission shall grant a hearing to a permittee or  
21 licensee who contests, in writing, a citation issued under this  
22 section. If a hearing is requested the commission shall treat the  
23 citation as a report from the executive director and shall proceed  
24 in accordance with section 5.117, Water Code.

25       (e) Payment of a penalty for a citation issued under this  
26 section shall be full and complete satisfaction of the violation

1 for which the citation was issued and shall preclude any other  
2 civil or criminal penalty for the same violation.

3 SECTION 3. This Act takes effect September 1, 1991, and  
4 applies only to violations that occur on or after that date. A  
5 violation that occurs before the effective date of this Act is  
6 governed by the law in effect when the violation occurred and the  
7 former law is continued in effect for that purpose. For purposes  
8 of this section, a violation occurs before the effective date of  
9 this Act if the notice, record, report or other document is  
10 completed and filed before that date.

11 SECTION 4. The importance of this legislation and the crowded  
12 condition of the calendars in both houses create an emergency and  
13 in imperative public necessity that the constitutional rule  
14 requiring bills to be read on three several days in each house be  
15 suspended, and this rule is hereby suspended.

# HOUSE COMMITTEE REPORT

91 MAY 17 PM 11:44

1st Printing

By Lewis, Ron

H.B. No. 2360

Substitute the following for H.B. No. 2360

By Yost

C.S.H.B. No. 2360

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Texas Water Commission to issue written citations for violations of the Water Code and the Solid Waste Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.117(a), Water Code, is amended to read as follows:

(a) The executive director shall monitor compliance with all permits and licenses issued by the commission.

(1) If the executive director determines [;--and-if-the evidence--available--to--the--executive--director--through--this monitoring-process-indicates] that a permittee or licensee is in substantial noncompliance with that [his] permit or license for a period of four months, or for a shorter period of time if the executive director considers an emergency to exist, the executive director shall report this fact to the commission together with the information relating to the noncompliance.

(2) If the executive director or a designated field agent of the commission determines that a permittee or licensee made any false statement, representation, or certification in any notice, record, report or other document filed or required to be maintained under chapter 5, chapter 26 or chapter 27 of this code, or under any rule, regulation, permit or other order of the

1 commission promulgated thereunder, the executive director or  
2 designated field agent may issue a written citation in accordance  
3 with subsection (g) of this section.

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5 subsections (g), (h), (i), and (j) as follows:

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10 of the citation shall be filed with the commission, one copy filed  
11 in the field office records, and one copy provided to the permittee  
12 or licensee.

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14 of violations for which a citation may be issued and a penalty of  
15 not less than \$50 nor more than \$1000 for each violation.

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17 licensee who contests, in writing, a citation issued under this  
18 section. If a hearing is requested the commission shall treat the  
19 citation as a report from the executive director and shall proceed  
20 in accordance with subsection (b) of this section.

21 (j) Payment of a penalty for a citation issued under this  
22 section shall be full and complete satisfaction of the violation  
23 for which the citation was issued and shall preclude any other  
24 civil or criminal penalty for the same violation.

25 SECTION 3. The Health and Safety Code is amended by adding  
26 Section 361.253 as follows:

27 Sec. 361.253. WRITTEN CITATIONS; PENALTIES

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2 the commission determines that a permittee or licensee made any  
3 false statement, representation, or certification in any notice,  
4 record, report or other document filed or required to be maintained  
5 under sections 361.035, 361.036 or 361.037 of this code, or under  
6 any rule, regulation, permit or other order of the commission  
7 promulgated thereunder, the executive director or designated field  
8 agent may issue a written citation in accordance with this section.

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10 shall contain the name and address of the permittee or licensee,  
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12 violation, and the amount of the penalty to be assessed. One copy  
13 of the citation shall be filed with the commission, one copy filed  
14 in the field office records, and one copy provided to the permittee  
15 or licensee.

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17 of violations for which a citation may be issued and a penalty of  
18 not less than \$50 nor more than \$1000 for each violation.

19       (d) The commission shall grant a hearing to a permittee or  
20 licensee who contests, in writing, a citation issued under this  
21 section. If a hearing is requested the commission shall treat the  
22 citation as a report from the executive director and shall proceed  
23 in accordance with section 5.117, Water Code.

24       (e) Payment of a penalty for a citation issued under this  
25 section shall be full and complete satisfaction of the violation  
26 for which the citation was issued and shall preclude any other  
27 civil or criminal penalty for the same violation.

1           SECTION 4. This Act takes effect September 1, 1991, and  
2 applies only to violations that occur on or after that date. A  
3 violation that occurs before the effective date of this Act is  
4 governed by the law in effect when the violation occurred and the  
5 former law is continued in effect for that purpose. For purposes  
6 of this section, a violation occurs before the effective date of  
7 this Act if the notice, record, report or other document is  
8 completed and filed before that date.

9           SECTION 5. The importance of this legislation and the crowded  
10 condition of the calendars in both houses create an emergency and  
11 an imperative public necessity that the constitutional rule  
12 requiring bills to be read on three several days in each house be  
13 suspended, and this rule is hereby suspended.



**COMMITTEE REPORT**

The Honorable Gib Lewis  
 Speaker of the House of Representatives

May 17, 1991  
 (date)

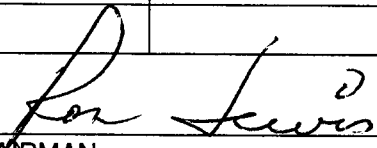
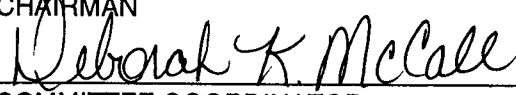
Sir:  
 We, your COMMITTEE ON NATURAL RESOURCES,  
 to whom was referred HB 2360 have had the same under consideration and beg to report  
 (measure)

back with the recommendation that it  
 ( ) do pass, without amendment.  
 ( ) do pass, with amendment(s).  
 (X ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  
 A fiscal note was requested. (X ) yes ( ) no      An author's fiscal statement was requested. ( ) yes (X ) no  
 A criminal justice policy impact statement was requested. ( ) yes (X ) no  
 An equalized educational funding impact statement was requested. ( ) yes (X ) no  
 An actuarial analysis was requested. ( ) yes (X ) no  
 A water development policy impact statement was requested. ( ) yes (X ) no  
 A federal funds impact statement was requested. ( ) yes (X ) no  
 (X ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.  
 This measure ( ) proposes new law.      (X ) amends existing law.  
 House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Lewis, R., Ch.	x			
Willy, V.C.	x			
Collazo, C.B.O.				x
Bosse	x			
Greenberg	x			
Haggerty	x			
Hilderbran	x			
Puente	x			
Yost	x			

Total      8      aye  
              0      nay  
              0      present, not voting  
              1      absent

  
 CHAIRMAN  
  
 COMMITTEE COORDINATOR

HB 2360  
By: R. Lewis  
CSHB 2360  
By: Yost

Committee on  
Natural Resources

## BILL ANALYSIS

### BACKGROUND

The normal enforcement process requiring formal commission action can be too lengthy and cumbersome to properly address minor violations, such as paperwork omissions. It is felt by some that field inspectors should be given authority to issue citations, similar to traffic tickets, stating the minor violation and applying a set fine amount. Any citation issued by a field inspector would be limited to non-substantive violations of the permit, with strict statutory guidelines governing field inspector conduct to ensure uniform enforcement. Citations would be contestable by requesting a normal enforcement hearing on the violation, just as a driver may request a trial to contest a traffic ticket. This program would result in better enforcement of the procedural requirements of the Water Code and the Health and Safety Code, and at little or no additional cost.

### PURPOSE OF THE BILL

This bill would amend the Water Code to allow the Texas Water Commission field inspectors to issue written citations for violations of regulations relating to required records or documents.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.117(a), Water Code, to provide for issuance of written citations for making false statements in any record required by the Water Code or commission regulations.

SECTION 2. Amends Section 5.117, Water Code by adding subsections (g), (h), (i), and (j) as follows:

(g) provides for citations to be prepared in triplicate  
(h) provides penalty limits for citations between \$50 and \$1000;

(i) provides for appeal of a citation through regular hearing process

(j) provides that payment of penalty shall preclude any other civil or criminal penalty for the same violation.

SECTION 3. Amends the Health and Safety Code by adding Section 361.253 to

(a) provide for issuance of written citations for making false statements in any record required by the Water Code or commission regulations;

(b) provides for requirements of written citations

(c) provides penalty limits for citations between \$50 and \$1000

(d) provides for appeal of a citation through regular hearing process.

(e) provides that payment of penalty shall preclude any other civil or criminal penalty for the same violation.

SECTION 4. Effective date: September 1, 1991; applies only to violations occurring on or after effective date.

SECTION 5. Emergency clause.

#### RULEMAKING AUTHORITY

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state officer, department, institution, or agency.

#### COMPARISON OF SUBSTITUTE TO ORIGINAL

The substitute removes the requirement that penalties may only be assessed if a false statement is "knowingly or negligently" made. The language follows civil rather than criminal standards.

#### SUMMARY OF COMMITTEE ACTION

Notice was posted in accordance with House Rules, and HB 2360 was heard at a full committee public hearing on April 22, 1991. A resource witness testified on the bill. The motion to refer HB 2360 to subcommittee carried without objection. On May 17, 1991, HB 2360 was called up at a full committee formal meeting. A substitute for the bill was laid out and adopted without objection. The motion to report HB 2360, as substituted, favorably back to the full House with the recommendation that it be placed on the Local and Consent calendar carried by a vote of 8 ayes, 0 nays, 0 PNV and 1 absent.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**

April 15, 1991

TO: Honorable Ron Lewis, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

IN RE: House Bill No. 2360  
By: R. Lewis

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 2360 (relating to the authority of the Texas Water Commission to issue written citations for violations of the Water Code and the Solid Waste Act) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

Source: Texas Water Commission;  
LBB Staff: JO, JWH, DF, JG, PA

H. B. No. 2360

By Bon Lewis

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of the Texas Water Commission to issue written citations for violations of the Water Code and the Solid Waste Act.

PERMISSION GRANTED TO INTRODUCE

MAR 19 1991

1. Filed with the Chief Clerk.

MAR 27 1991

2. Read first time and Referred to Committee on NATURAL RESOURCES

MAY 17 1991

3. Reported ✓ favorably (as amended) and sent to Printer at 7:30p  
(as substituted) MAY 17 1991

MAY 17 1991

4. Printed and distributed at 11:44p

MAY 20 1991

5. Sent to Committee on Calendars at 9:33am  
Transferred to Calendars @ 4:04pm

MAY 23 1991

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_\_\_

13. Engrossed.

14. Returned to Chief Clerk at \_\_\_\_\_

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on \_\_\_\_\_

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by (a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules  
suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION:

OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments.)  
(as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)  
(Substitute) by a (Non-Record  
Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_

HOUSE OF REPRESENTATIVES

91 MAY 17 PM 11:44

2360